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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/556,945	04/21/2000	James D. Marks	3042/OG956	6556

7590 02/24/2004
Darby & Darby PC
805 Third Avenue
New York, NY 10022

EXAMINER

MORGAN, ROBERT W

ART UNIT PAPER NUMBER

3626

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/556,945

Applicant(s)

MARKS, JAMES D.

Examiner

Robert W. Morgan

Art Unit

3626

MW

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) The period for reply expires 3 months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

- 1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
- 2. The proposed amendment(s) will not be entered because:
 - (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) they raise the issue of new matter (see Note below);
 - (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

- 3. Applicant's reply has overcome the following rejection(s): _____.
- 4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
- 5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
- 6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- 7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.

Claim(s) objected to: NONE.

Claim(s) rejected: 1-72.

Claim(s) withdrawn from consideration: 73-148.

- 8. The drawing correction filed on _____ is a) approved or b) disapproved by the Examiner.
- 9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
- 10. Other: _____

Joseph Thomas
JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Continuation of 2. NOTE: The proposed change to claims 1 and 25 of "adding the at least one of medical and personally identifying information to a database of at least one individual available for recruitment" and to claims 15 and 46 of "the authorized individual being a person with permission to receive information stored in the database," are a change in the scope of the claims as previously presented and would require further search and consideration.

In addition, claims 1, 25 and 31 are directed to on-line consent to an electronic agreement, claims 56, 59 and 61 are directed to an electronic agreement that relates to volunteering as a potential candidate and claim 60 is drawn to on-line recruitment. The Examiner respectfully submits this is clearly distinguishable from an on-line consent to volunteering for consideration as recited in the independent claims of the group, claims 73-148. Therefore, the restriction is indeed proper. As such, "volunteering for consideration as potential candidate for one of a potential clinical trials" is not part of the originally filed claims and would require further search and consideration as they change the scope of the invention from that previously claimed.

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's remarks appear to rely on features which have not been entered as of the present communication. Thus, the finality of the previous Office Action is maintained.